

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, JUNE 17, 2009**

C-1 Call to Order / Roll Call

The City Council Closed Session meeting of June 17, 2009, was called to order by Mayor Hansen at 6:31 p.m.

Present: Council Member Johnson, Council Member Mounce, and Mayor Hansen

Absent: Council Member Hitchcock, and Mayor Pro Tempore Katzakian

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

C-2 Announcement of Closed Session

a) Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by James Gribaudo against City of Lodi Based on Personal Injury

b) Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Sean Angoco against City of Lodi Based on Personal Injury

C-3 Adjourn to Closed Session

At 6:31 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 6:36 p.m.

C-4 Return to Open Session / Disclosure of Action

At 7:01 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), the City Council provided authorization to settle the claim in the amount of \$7,235.

Item C-2 (b) was not discussed.

A. Call to Order / Roll call

The Regular City Council meeting of June 17, 2009, was called to order by Mayor Hansen at 7:01 p.m.

Present: Council Member Johnson, Council Member Mounce, and Mayor Hansen

Absent: Council Member Hitchcock, and Mayor Pro Tempore Katzakian

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Invocation - Pastor Bill Cummins, Bear Creek Community Church

C. Pledge of Allegiance

D. Presentations

D-1 Awards - None

D-2 Proclamations - None

D-3 Presentations

a) Presentation of Certificate of Recognition to A&W Restaurants Inc. for its 90th Anniversary

Mayor Hansen presented a Certificate of Recognition to Peter Knight with A&W in celebration of the 90th Anniversary of A&W Restaurants Inc.

b) Presentation of Resolution of Appreciation to Retiring Fire Chief Mike Pretz

Mayor Hansen presented a Resolution of Appreciation to Fire Chief Mike Pretz who is retiring from the City of Lodi after nine years of dedicated service to the City of Lodi and its citizens.

c) Recognition of the City of Lodi for Being Awarded Employer of the Year ~ Large Company by the San Joaquin Mayors' Committee for Employment of People with Disabilities

Following introductory comments by City Manager King regarding the City's recognition by the San Joaquin Mayors' Committee for Employment of People with Disabilities, Armando Ayala, Program Manager with United Cerebral Palsy (UCP), thanked and recognized the City of Lodi for utilizing the UCP Program, which provides meaningful work for the disabled.

E. Consent Calendar (Reading; Comments by the Public; Council Action)

Council Member Johnson made a motion, second by Council Member Mounce, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock, and Mayor Pro Tempore Katzakian

E-1 Receive Register of Claims in the Amount of \$5,117,873.48 (FIN)

Claims were approved in the amount of \$5,117,873.48.

E-2 Approve Minutes (CLK)

The minutes of May 20, 2009 (Regular Meeting), June 2, 2009 (Shirtsleeve Session), June 2, 2009 (Special Meeting), June 3, 2009 (Regular Meeting), June 9, 2009 (Shirtsleeve Session), and June 10, 2009 (Special Meeting) were approved as written.

E-3 Report of Sale of Surplus Equipment (PW)

Received report of the sale of surplus equipment.

E-4 Adopt Resolution Awarding the Purchase of Troubleman Bucket Truck to Altec Industries Inc., of Dixon, California (\$84,715) (EUD)

Adopted Resolution No. 2009-78 awarding the purchase of troubleman bucket truck to Altec

Industries Inc., of Dixon, California, in the amount of \$84,715.

- E-5 Adopt Resolution Awarding Annual Contract for Curb, Gutter, and Sidewalk Replacement to Jeff Case Construction, of Galt (\$46,570) (PW)

Adopted Resolution No. 2009-79 awarding the annual contract for curb, gutter, and sidewalk replacement to Jeff Case Construction, of Galt, in the amount of \$46,570.

- E-6 Adopt Resolution Approving the Master Lease Agreement with the Lodi Grape Festival and National Wine Show Association for Use of Various Festival Ground Facilities (\$21,000) (PR)

Adopted Resolution No. 2009-80 approving the Master Lease Agreement with the Lodi Grape Festival and National Wine Show Association for use of various Festival ground facilities in the amount of \$21,000.

- E-7 Adopt Resolution Authorizing the City Manager to Execute an Agreement with the Boosters of Boys/Girls Sports Organization for Concession Operations (PR)

Adopted Resolution No. 2009-81 authorizing the City Manager to execute an agreement with the Boosters of Boys/Girls Sports Organization for concession operations.

- E-8 Adopt Resolution Approving a Second One-Year Extension of Tree Trimming 2007 Contract with West Coast Arborists, Inc., of Stockton (\$40,000) (PW)

Adopted Resolution No. 2009-82 approving a second one-year extension of tree trimming 2007 contract with West Coast Arborists, Inc., of Stockton, in the amount of \$40,000.

- E-9 Adopt Resolution Approving Contracts for Fiscal Year 2009-10 with United Cerebral Palsy of San Joaquin, Amador, and Calaveras Counties, of Stockton, for Downtown Cleaning (\$46,872) and Transit Facility Cleaning (\$38,456) (PW)

Adopted Resolution No. 2009-83 approving contracts for fiscal year 2009-10 with United Cerebral Palsy of San Joaquin, Amador, and Calaveras Counties, of Stockton, for downtown cleaning in the amount of \$46,872 and transit facility cleaning in the amount of \$38,456.

- E-10 Adopt Resolution Authorizing the City Manager to Execute Task Order No. 2 for Wastewater Utility Financial Planning, Rate Setting, and Capacity Charge Study with The Reed Group, Inc., of Sacramento (\$48,100), and Appropriating Funds (\$60,000) (PW)

Adopted Resolution No. 2009-84 authorizing the City Manager to execute Task Order No. 2 for Wastewater Utility Financial Planning, Rate Setting, and Capacity Charge Study with The Reed Group, Inc., of Sacramento, in the amount of \$48,100, and appropriating funds in the amount of \$60,000.

- E-11 Adopt Resolution Authorizing the City Manager to Execute Master Professional Services Agreement and Task Order No. 1 of the City of Lodi Soil and Groundwater Remediation Projects with Stantec Consulting Corporation, of Rancho Cordova (\$70,981) and Appropriating Funds (\$100,000) (PW)

This item was pulled for further discussion by Ann Cerney, a member of the public.

Public Works Director Wally Sandelin provided a brief overview of the proposed action related to remediation of groundwater contamination as required by the State.

In response to Ms. Cerney, Mr. Schwabauer stated the primary issue is past practice at White Slough when sludge was removed and contaminants were disbursed on neighboring soil. Mr. Schwabauer stated it is a minor issue that is being addressed through the remediation.

Mayor Hansen made a motion, second by Council Member Johnson, to adopt Resolution No. 2009-87 authorizing the City Manager to execute Master Professional Services Agreement and Task Order No. 1 of the City of Lodi Soil and Groundwater Remediation Projects with Stantec Consulting Corporation, of Rancho Cordova, in the amount of \$70,981 and appropriating funds in the amount of \$100,000.

**VOTE:**

The above motion carried by the following vote:

Ayes: Council Member Johnson, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock, and Mayor Pro Tempore Katzakian

**E-12 Approve Amendment Extending the Term of the Northeastern San Joaquin County Groundwater Banking Authority Joint Powers Agreement (PW)**

Approved amendment extending the term of the Northeastern San Joaquin County Groundwater Banking Authority Joint Powers Agreement.

**E-13 Adopt Resolution Authorizing the City Manager to Execute a Master Confirmation Agreement with J.P. Morgan Ventures Energy Corporation (EUD)**

Adopted Resolution No. 2009-85 authorizing the City Manager to execute a Master Confirmation Agreement with J.P. Morgan Ventures Energy Corporation.

**E-14 Adopt Resolution Authorizing the City Manager to File Claim for the 2008-09 Transportation Development Act Funds in the Amount of \$2,839,686 from the Local Transportation Fund and \$82,648 from State Transit Assistance (PW)**

Adopted Resolution No. 2009-86 authorizing the City Manager to file claim for the 2008-09 Transportation Development Act funds in the amount of \$2,839,686 from the Local Transportation Fund and \$82,648 from State Transit Assistance.

**E-15 Adopt Resolution Amending the City of Lodi Drug and Alcohol Testing Policy and Drug and Alcohol Testing Procedure in Accordance with the Federal Transit Administration Drug and Alcohol Program Requirements (CM)**

Pursuant to the City Manager, this item was removed in its entirety from the agenda and will be brought back at a future date.

**E-16 Adopt Resolution Nominating Representative from the City of Stockton to the Special City Selection Committee for Appointment to the San Joaquin Valley Air Pollution Control District Governing Board (CLK)**

This item was pulled for further discussion by Council Member Johnson.

Council Member Johnson outlined his reasoning for not supporting the appointment based on the insufficiency of the selection process and lack of participation in the meetings by the applicant.

Mayor Hansen outlined his reasoning for not supporting the appointment based on concerns he

has been made aware of regarding the ability of the applicant to represent the City in this position.

Ann Cerney spoke in favor of obtaining more information regarding the appointment process and the interest of the applicant in the position.

Council Member Johnson made a motion, second by Mayor Hansen, to not support the nomination from the city of Stockton to the Special City Selection Committee for appointment to the San Joaquin Valley Air Pollution Control District Governing Board.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, and Mayor Hansen

Noes: Council Member Mounce

Absent: Council Member Hitchcock, and Mayor Pro Tempore Katzakian

F. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Ann Cerney spoke regarding her concern about condominiums being built near Woodbridge Road at the location of the current mobile home park and the consistency of the proposed development with the City's General Plan and Area of Interest sphere.

G. Comments by the City Council Members on Non-Agenda Items

Council Member Johnson requested staff provide information to the Council regarding the recent adoption of a call fee or annual subscription for emergency services by the city of Tracy.

Council Member Mounce requested that the Parks and Recreation Commission look into adopting a policy for the Lodi Lake Nature Area with respect to usage and gate closures, reported on a recent study for city and county manager compensation, and urged citizens to continue their annual efforts in having block parties for National Night Out.

Mayor Hansen reported on his attendance at the American Public Power Association annual conference, during which the main issues of discussion were the carbon footprint, greenhouse gas emissions, and local control for rate payers and utilities.

H. Comments by the City Manager on Non-Agenda Items

City Manager King stated the issue of manager compensation is of concern to him and his colleagues and suggested the idea of peer review. He stated that, while the field is very competitive and challenging, there is an International City Managers Association Code of Ethics that applies to the compensation issue.

I. Public Hearings

I-1 Public Hearing to Consider Resolution Adopting Final Engineer's Annual Levy Report for Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, Fiscal Year 2009-10, and Ordering the Levy and Collection of Assessments (PW)

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider resolution adopting Final Engineer's Annual Levy Report for Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, Fiscal Year 2009-10, and ordering the levy and collection of assessments.

Senior Civil Engineer Sharon Welch provided a brief presentation regarding the history of the landscape maintenance assessment district in the City of Lodi, the annual report for bookkeeping purposes, the services provided and the related costs, and the proposed staff recommendation.

Council Member Mounce made a motion, second by Council Member Johnson, to adopt Resolution No. 2009-88 adopting Final Engineer's Annual Levy Report for Lodi Consolidated Landscape Maintenance Assessment District No. 2003-1, Fiscal Year 2009-10, and ordering the levy and collection of assessments.

**VOTE:**

The above motion carried by the following vote:

Ayes: Council Member Johnson, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock, and Mayor Pro Tempore Katzakian

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments

- a) Appointments to the Library Board of Trustees: Caitlin Casey; Lodi Arts Commission: Ben Burgess, Nancy Carey, Jennifer Walth; Lodi Budget/Finance Committee: Bill Russell, Louis Ponick, Steven Reeves; Planning Commission: Bill Cummins, Debbie Olson; and San Joaquin County Commission on Aging: Terri Whitmire; and Direction to Post for Remaining Vacancies on the Library Board of Trustees and the Lodi Budget/Finance Committee (CLK)

Council Member Mounce made a motion, second by Council Member Johnson, to make the following appointments and further direct the City Clerk to post for the remaining vacancies on the Library Board of Trustees and the Lodi Budget/Finance Committee:

**APPOINTMENTS:**

Library Board of Trustees

Caitlin Casey, term to expire June 30, 2012

Lodi Arts Commission

Ben Burgess, term to expire July 1, 2012

Nancy Carey, term to expire July 1, 2012

Jennifer Walth, term to expire July 1, 2012

Lodi Budget/Finance Committee

Bill Russell, term to expire June 30, 2013

Louis Ponick, term to expire June 30, 2013  
Steven Reeves, term to expire June 30, 2013

Planning Commission

Bill Cummins, term to expire June 30, 2013  
Debbie Olson, term to expire June 30, 2013

San Joaquin County Commission on Aging

Terri Whitmire, term to expire June 30, 2012

POSTING:

Library Board of Trustees

One vacancy, term to expire June 30, 2012

Lodi Budget/Finance Committee

One vacancy, term to expire June 30, 2013

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock, and Mayor Pro Tempore Katzakian

b) Post for One Vacancy on the Lodi Animal Advisory Commission (CLK)

Council Member Mounce made a motion, second by Council Member Johnson, to direct the City Clerk to post for the following vacancy:

Lodi Animal Advisory Commission

Thomas Carleton, term to expire December 31, 2010

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock, and Mayor Pro Tempore Katzakian

J-3 Miscellaneous - None

K. Regular Calendar

K-1 Adopt Resolution Authorizing the Harney Lane Alternative to Measure K Railroad Grade Separation Project (CD)

Interim Community Development Director Rad Bartlam provided a brief presentation regarding an overview of the original Measure K strategic plan, railroad safety projects and related costs, the designation of the Lodi Avenue grade separation project, alternatives to the grade separation project including Harney Lane, project designation by the San Joaquin Council of Governments (SJCOG), the request from SJCOG to get the City to reconfirm its commitment to the grade separation project with the Harney Lane alternative, the unanimous approval by the Planning Commission, limited disturbance to the area residents and business owners, and staff recommendation for approval.

In response to Council Member Mounce, Mr. Bartlam stated no homes will be affected by the project because the reserved right of way is sufficient.

In response to Council Member Johnson, Mr. Bartlam stated there is no Harney Lane access for Stockton Street properties as currently proposed in the project because access is through Stockton Street.

In response to Council Member Johnson, Mr. Hansen stated the attitude toward the original Lodi Avenue project by some of the downtown businesses is still the same and they remain in opposition.

Mayor Hansen made a motion, second by Council Member Johnson, to adopt Resolution No. 2009-89 authorizing the Harney Lane alternative to Measure K Railroad Grade Separation Project.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock, and Mayor Pro Tempore Katzakian

K-2 Adopt Resolution Authorizing the City Manager to Allocate a Combined \$169,800 in Public Benefit Program Funds for Five Programs and Authorize the City Manager to Execute Contracts with Five Different Entities to Assist in Managing Programs (EUD)

City Manager King briefly introduced the subject matter of the Lodi Public Benefits Program.

Electric Utility Customer Service and Programs Manager Rob Lechner provided a PowerPoint presentation regarding the public benefits program. Specific topics of discussion included an overview of the public benefit program, what is the public benefits program, state law, components of the program, discretion to expend and allocate public benefits, 2008-09 fiscal year program review, marketing programs, offering of programs, rebates, energy audit program, CARE and SHARE programs, education, residential programs, commercial and industrial programs, energy education and outreach, program contracts, reporting requirements and special projects, 2009-10 program budget, federal stimulus funds, and contact information for citizens.

In response to Council Member Mounce, Mr. Lechner stated the 2.85% set aside amount was established by the State in 1996.

In response to Mayor Hansen, Mr. Lechner stated staff is aware of the SMART meters program, which allows users to receive information on how much energy they are consuming, and it is researching options associated with the same.

In response to Mayor Hansen, Mr. Lechner stated the \$25,000 figure will likely assist 25 commercial and industrial businesses, and possibly 50 to 60 businesses if additional federal stimulus dollars are received.

In response to Council Member Johnson, Mr. Lechner stated the education and outreach programs with the Lodi Unified School District are fully booked for the 2009-10 year and the scheduled teachers are on staff.

In response to Mayor Hansen, Mr. Lechner stated the left over funding remaining from the year is applied local rate discounts or renewable energy resources eligible under the public benefits programs.



In response to Mayor Hansen, Mr. Lechner stated the economy is hurting the benefits program with the larger customers since they are deciding to wait because the amount of the rebate is not sufficient enough to encourage them to spend the additional money on a project.

In response to Council Member Johnson, Mr. Lechner confirmed that other agencies are experiencing the same types of declines in their numbers.

In response to Council Member Johnson, Mr. Lechner and Mr. King stated typically the electric utility is over committed with respect to programs and the main difference in the current year is the supplement of federal stimulus dollars, which will go to a variety of projects within the City. Mr. Lechner stated that what is eligible as a public benefit is typically a moving target and the money could be used for a variety of projects. Mr. King stated it is anticipated that the City will receive the federal stimulus funding because it is non-competitive and one-time grant funds.

In response to Mayor Hansen, Mr. Lechner stated that, if the additional funding is not put toward the geysers, funding for the geysers will need to come from some place else.

In response to Council Member Mounce, Mr. Lechner stated the County, Salvation Army, and Loel Center are working cooperatively with one another on program distribution, including the SHARE program.

Mayor Hansen made a motion, second by Council Member Johnson, to adopt Resolution No. 2009-90 authorizing the City Manager to allocate a combined \$169,800 in Public Benefit Program funds for five programs and authorizing the City Manager to execute contracts with five different entities to assist in managing programs.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock, and Mayor Pro Tempore Katzakian

K-3 Approve Plans and Specifications and Authorize Advertisement for Bids for Lodi Avenue Reconstruction Project and Adopt Resolution Approving Mitigated Negative Declaration 09-01 (PW)

City Manager King provided a brief introduction to the subject matter of Lodi Avenue reconstruction project.

Public Works Director Wally Sandelin provided a presentation regarding the Lodi Avenue reconstruction project and related mitigated negative declaration. Specific topics of discussion included an overview of the proposed project, planned improvements, installation of crosswalks, replacement of curb turns, installation of landscaping, new pergola installation, shorter crossing distances, intersection of Central Avenue, addition of street furniture, unique lighting, art mosaics, and the \$3.4 million budget, which includes funding from various sources.

In response to Mayor Hansen, Mr. Sandelin stated the mosaics will be placed along the entire length of the project.

In response to Council Member Mounce, Mr. Sandelin stated the proposed lights are similar to the existing lights on Cherokee, although a bit different to address cost, burn out, and the need for additional lighting.

In response to Mayor Hansen, Mr. Sandelin stated the \$960,000 was related to the second round of funding with Proposition 1B.

In response to Mayor Hansen, Mr. Sandelin stated construction will occur in Spring to accommodate the time to process federal stimulus.

In response to Council Member Johnson, Mr. Sandelin stated the length of the construction will be approximately 90 days.

In response to Mayor Hansen, Mr. Sandelin stated the street will be open as much as possible, there will be short closures, and communication and outreach efforts with the property owners is strong.

In response to Mayor Hansen, Mr. Sandelin stated the half block crossings allow for safer crossings because of color, enhanced lighting, and shortened crossing distances.

In response to Council Member Mounce, Mr. Sandelin stated the bulb outs on Stockton Street will allow for wider and easier truck turns.

In response to Council Member Mounce, Mr. Sandelin stated the Central Avenue bulb outs do not protrude past the current parking.

In response to Council Member Mounce, Mr. Sandelin stated the pergola is to be installed in July and August and the decision for the location was made a part of the Smart & Final project approval. Mr. King stated that, although there would be cost involved in relocating the pergola from its proposed location, it can be brought back to the City Council if the Council so desires.

In response to Council Member Mounce, Mr. Hansen stated the current pad for the pergola was poured for that project specifically.

Arts Commissioner Ben Burgess provided a brief overview and status of the pergola project concept and approval.

Mayor Hansen made a motion, second by Council Member Johnson, to approve plans and specifications and authorize advertisement for bids for Lodi Avenue Reconstruction Project and adopt Resolution No. 2009-91 approving Mitigated Negative Declaration 09-01.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock, and Mayor Pro Tempore Katzakian

K-4 Approve Legal Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$1,999.58) (CA)

In response to Mayor Hansen, Mr. Schwabauer stated a late invoice was submitted on a deposition transcript.

Council Member Mounce made a motion, second by Council Member Johnson, to approve legal expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation in the amount of \$1,999.58, as further detailed in the staff report.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock, and Mayor Pro Tempore Katzakian

K-5 Cancel July 1, 2009, Regular City Council Meeting (CLK)

Mayor Hansen made a motion, second by Council Member Johnson, to cancel July 1, 2009, Regular City Council Meeting.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: Council Member Hitchcock, and Mayor Pro Tempore Katzakian

L. Ordinances - None

M. Adjournment

There being no further business to come before the City Council, the meeting was adjourned at 9:24 p.m.

ATTEST:

Randi Johl  
City Clerk